

Environmental Protection Agency

§ 85.2107

(i) Is requested by the vehicle owner, or

(ii) Is caused by an event not attributable to the vehicle manufacturer or the warranty repair facility; and

(2) Require that if the facility at which the vehicle is initially presented for repair is unable for any reason to honor the particular claim, then, unless this requirement is waived in writing by the vehicle owner, the repair facility shall forward the claim to an individual or office authorized to make emission performance warranty determinations for the manufacturer.

(e) Within the time period specified in paragraph (d) of this section the manufacturer shall:

(1) Notify the owner that it will honor the claim; or

(2) Provide the owner, in writing, with an explanation of the basis upon which the claim is being denied; or

(3) If the basis of the claim denial involves use of an uncertified part, provide the owner in writing with an explanation of the basis upon which the claim is being denied according to all criteria specified in § 85.2105(b).

(f) Failure to notify an owner within the required time period (as determined under paragraph (d) of this section) for reasons that are not attributable to the vehicle owner or events which are not beyond the control of the vehicle manufacturer or the repair facility, shall result in the vehicle manufacturer being responsible for repairing the warranted items free of charge to the vehicle owner.

(g) The vehicle manufacturer shall incur all costs associated with a determination that an emission performance warranty claim is valid.

[45 FR 34839, May 22, 1980, as amended at 54 FR 32588, Aug. 8, 1989]

§ 85.2107 Warranty remedy.

(a) The manufacturer's obligation under the emission performance warranty shall be to make all adjustments, repairs or replacements necessary to assure that the vehicle complies with applicable emission standards of the U.S. Environmental Protection Agency, that it will continue to comply for the remainder of its useful life (if proper maintenance and operation are continued), and that it will operate in a

safe manner. The manufacturer shall bear all costs incurred as a result of the above obligation, *except that* after the first 24 months or 24,000 miles (whichever first occurs) the manufacturer shall be responsible only for:

(1) The adjustment, repair or replacement of those components which have been installed in or on a vehicle for the sole or primary purpose of reducing vehicle emissions, and which were not in general use prior to model year 1968; and

(2) All other components which must be adjusted, repaired or replaced to enable a component repaired or replaced under paragraph (a)(1) of this section to perform properly.

(b) Under the Emissions Performance Warranty, the manufacturer shall be liable for the total cost of the remedy for any vehicle validly presented for repair to any authorized service facility authorized by the vehicle manufacturer. State or local limitations as to the extent of the penalty or sanction imposed upon an owner of a failed vehicle shall have no bearing on this liability.

(c) The remedy provided under paragraph (a) of this section shall include the repair or replacement of certified parts as required in § 85.2105(a). To seek reimbursement from the involved certified aftermarket part manufacturer for reasonable expenses incurred due to the certified aftermarket parts determined to be the cause of a performance warranty failure, the vehicle manufacturer must:

(1) Retain all parts replaced during the performance warranty repair, and

(2) Follow the procedures laid out in § 85.2117.

(d) If a manufacturer is unable (for reasons not attributable to the vehicle owner or events beyond the control of the vehicle manufacturer or an authorized repair facility) to repair a vehicle within the time period specified under § 85.2106(d) after the initial presentation of the vehicle to an authorized repair facility, then the owner shall be entitled to have the warranty remedy performed, at the expense of the manufacturer, by any repair facility of the owner's choosing.

(e) The vehicle manufacturer may deny warranty for a failure caused by

§ 85.2108

an uncertified part in accordance with the criteria in § 85.2105.

[45 FR 34839, May 22, 1980, as amended at 54 FR 32588, Aug. 8, 1989]

§ 85.2108 Dealer certification.

(a) Upon the delivery of each new light-duty motor vehicle, the dealer shall furnish to the purchaser a certificate which states that:

(1) Based upon written notification furnished by the manufacturer, the dealer has knowledge that the vehicle is covered by an EPA Certificate of Conformity;

(2) Based upon a visual inspection of emissions control devices, there are no apparent deficiencies in the installation of such devices by the manufacturer. The visual inspection required by this subsection is limited to those emission control devices or portions thereof which are visible without removal or adjustment of any component or system of the vehicle, whether emissions related or otherwise.

(3) The dealer has performed all emission control system preparation required by the manufacturer prior to the sale of the vehicle, as set forth in the current predelivery service manual furnished by the manufacturer.

(b) The certificate shall further state that if the vehicle fails an EPA-approved emission test prior to the expiration of three months or 4,000 miles (whichever occurs first) from the date or mileage at the time of delivery of the vehicle to the ultimate purchaser, and the vehicle has been maintained and used in accordance with the written instructions for proper maintenance and use, then the vehicle manufacturer shall remedy the nonconformity under the emission performance warranty.

(c) For the purpose of this section, the term emission control devices shall be limited to all devices installed on a vehicle for the sole or primary purpose of controlling vehicle emissions and which were not in general use prior to 1968.

(d) A vehicle manufacturer shall provide the § 85.2108 remedy free of charge to the vehicle owner for any vehicle which, although maintained in accordance with the written instructions for proper maintenance and use, fails an

40 CFR Ch. I (7-1-00 Edition)

emission short test prior to the expiration of three months or 4,000 miles from the time of sale to the ultimate purchaser, without regard to whether a penalty or sanction is imposed because of the emissions short-test failure.

(e) The dealer certification required by this section shall not be construed as either a representation or a warranty, express or implied, by the dealer that the emission control system or any part thereof is without defect nor that the system will properly perform.

[46 FR 38692, July 29, 1981]

§ 85.2109 Inclusion of warranty provisions in owners' manuals and warranty booklets.

(a) A manufacturer shall furnish with each new motor vehicle, a full explanation of the Emission Performance Warranty, including at a minimum the following information:

(1) A basic statement of the coverage of the emissions performance warranty as set out in § 85.2103. This shall be separated from any other warranty given by the manufacturer and shall be prefaced by the title "Emissions Performance Warranty" set in bold face type; and

(2) A list of all items which are covered by the emission performance warranty for the full useful life of the vehicle. This list shall contain all components which have been installed in or on a vehicle solely or primarily for the purpose of reducing vehicle emissions, except those components which were in general use prior to model year 1968. All items listed pursuant to this subsection shall be described in the same manner as they are likely to be described on a service facility work receipt for that vehicle; and

(3) A list or a reference to the location of the instructions for proper maintenance and use, together with the time and/or mileage interval at which such instructions are to be performed; and

(4) An explanation of the effect that the use of certified parts will have on the emission performance warranty. This explanation shall comport with the provisions of § 85.2105 (b) and (c), including a statement in boldface type that maintenance, replacement, or repair of the emission control devices